

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF ILLINOIS  
3                   WESTERN DIVISION.

4           UNITED STATES OF AMERICA, ) Docket No. 12 CR 50027  
5    ) )  
6           Plaintiff, ) Rockford, Illinois  
7    ) Wednesday, November 14, 2012  
8           v. ) 9:00 o'clock a.m.  
9    ) )  
10          RITA A. CRUNDWELL, )  
11    ) )  
12          Defendant. )

13                                   REPORT OF PROCEEDINGS  
14                   BEFORE THE HONORABLE PHILIP G. REINHARD

15           APPEARANCES:

16           For the Government: HON. GARY S. SHAPIRO  
17                                   Acting United States Attorney  
18                                   (327 S. Church Street,  
19                                   Rockford, IL 61101) by  
20                                   MR. JOSEPH C. PEDERSEN  
21                                   MR. SCOTT PACCAGNINI  
22                                   Assistant U.S. Attorneys

23           For the Defendant: MR. PAUL E. GAZIANO  
24                                   MS. KRISTIN J. CARPENTER  
25                                   Federal Defender Program  
                                 (202 W. State Street,  
                                 Suite 600  
                                 Rockford, Illinois 61101)

          Also Present: MS. TRACI FEGRE  
                          Pretrial Services

          Court Reporter: Susan G. Bloom  
                             7757 Somerset Drive,  
                             Marengo, Illinois 60152  
                             (815) 923-4104

1 THE CLERK: 12 CR 50027, USA v. Rita  
2 Crundwell.

3 MR. PEDERSEN: Good morning, Your Honor. Joe  
4 Pedersen and Scott Paccagnini on behalf of the United  
5 States.

6 THE COURT: Good morning.

7 MR. GAZIANO: Good morning, Your Honor. Paul  
8 Gaziano and Kristin Carpenter of the Federal Defender  
9 Program here on behalf of Ms. Crundwell, who stands  
10 to my right.

11 THE COURT: All right. Good morning.

12 This matter is set for a status, and I  
13 see a plea agreement on my desk, and there was one on  
14 my, a draft on my desk this morning when I returned  
15 from vacation, so I presume that that's what's going  
16 to happen. The matter is going to be a plea of  
17 guilty this morning.

18 MR. PEDERSEN: That's correct, pursuant to  
19 the plea agreement.

20 THE COURT: All right. Now, I know the  
21 Marshals Office has said something to people who've  
22 come in to attend this proceeding, make sure that  
23 there's no device that anyone has that's on to record  
24 or to record any of the proceedings or to photograph  
25 or video any part of the proceedings. In addition,

1 all cell phones must be turned off. I don't want to  
2 be interrupted during the course of this proceeding.  
3 So, with that, people have been warned, and the  
4 Marshals Office will take appropriate action if  
5 something happens in contrary to my order.

6 Bear with me just a minute. I haven't  
7 been here for a couple weeks, and so I have to get  
8 materials before me relating to this matter.

9 (Brief pause.)

10 THE COURT: All right. I'm ready to proceed.

11 This is her first appearance on the  
12 criminal matter before me? I think it is.

13 MR. GAZIANO: Actually, I think we had an  
14 appearance back in -- well, that was --

15 THE COURT: It could have been on the civil  
16 end of it.

17 So, you are Rita Crundwell; is that  
18 correct?

19 DEFENDANT CRUNDWELL: Yes, Your Honor.

20 THE COURT: This matter has been set today  
21 for a plea of guilty, if that's what you choose to do  
22 in this case. I just want to make sure before I  
23 start the plea proceeding that that's what you intend  
24 to do this morning; is that correct?

25 DEFENDANT CRUNDWELL: Yes, Your Honor.

1           THE COURT: You have discussed this, I would  
2 presume, thoroughly with your lawyers in the case?

3           DEFENDANT CRUNDWELL: Yes.

4           THE COURT: And this also includes a  
5 forfeiture allegation in the indictment, and that  
6 forfeiture allegation would be admitted as well; is  
7 that correct?

8           DEFENDANT CRUNDWELL: Yes, Your Honor.

9           THE COURT: I have looked over the draft plea  
10 agreement that had been placed on my desk this  
11 morning, and I have a couple questions before we  
12 proceed with the normal plea proceeding.

13                   First of all, I'll address Mr. Pedersen.  
14 There is stipulated conduct as I saw in Paragraph 7  
15 of the plea agreement; is that correct?

16           MR. PEDERSEN: That's correct.

17           THE COURT: And I'm also aware just by  
18 reading the newspapers that there's a matter pending  
19 in state court, I guess is that Lee County?

20           MR. GAZIANO: That's Lee County.

21           THE COURT: Is any of the stipulated conduct  
22 or relevant conduct a part of the allegations in the  
23 state proceeding?

24           MR. PEDERSEN: I believe that all the counts  
25 of theft that are alleged against her in Lee County

1 are the same conduct that is alleged to have occurred  
2 throughout the scheme of fraud in this case.

3 THE COURT: All right. I'm just trying to --  
4 ultimately, at the sentencing hearing, you're going  
5 to ask me to consider conduct that is before a judge  
6 in the state court.

7 MR. GAZIANO: No.

8 MR. PEDERSEN: Well, the scheme to defraud  
9 that's alleged in the indictment began in 1990 and  
10 went all the way through to her arrest. The Lee  
11 County State's Attorney's Office has filed charges  
12 against her relating to, I believe, a shorter time  
13 period, maybe a two-year period. I'm not -- I don't  
14 remember the exact dates.

15 THE COURT: But that conduct you're going to  
16 ask that I consider ultimately if she pleads guilty  
17 in the sentencing in this case. Is that correct or  
18 not?

19 MR. PEDERSEN: It's all -- the scheme to  
20 defraud encompasses all the money she took. They've  
21 alleged that she took a portion of that money, so  
22 ultimately, I guess, yes.

23 THE COURT: All right. That's what I'm  
24 trying to figure out. I want her to be clear on  
25 that, too.

1                   Mr. Gaziano, I'll ask you this. You're  
2 not her counsel in the state court proceeding.

3                   MR. GAZIANO: We are not, Your Honor.

4                   THE COURT: And do you anticipate, at least  
5 at this point, that might be disposed of before her  
6 sentencing hearing in this case?

7                   MR. GAZIANO: Judge, I have no way of knowing  
8 the answer to that.

9                   THE COURT: All right. One other point that  
10 I wanted to raise in looking at the plea agreement.  
11 The statutory penalty here, and I'll explain this  
12 more fully at the time during the course of the plea  
13 proceeding, but the statutory penalty is a maximum  
14 sentence of 20 years, which is for wire fraud. Is  
15 that an offense that is a Class C felony?

16                  MR. PEDERSEN: Correct.

17                  THE COURT: Is that one that's probational or  
18 not?

19                  MR. PEDERSEN: Yes.

20                  THE COURT: All right. I didn't see that in  
21 the plea agreement. I want to make it clear that  
22 while it may be probational, there's little  
23 likelihood that she would get probation.

24                  Do you understand that?

25                  DEFENDANT CRUNDWELL: Yes, sir.

1           THE COURT: I've looked at the guidelines,  
2           and the guidelines are significant as far as the  
3           period of imprisonment. But you didn't have it in  
4           there that she was eligible for probation, but I  
5           wanted to let you know that, while eligible, could be  
6           little likelihood of that.

7                     Do you wish to proceed then with the  
8           proceeding as it relates to both the indictment that  
9           charges a criminal offense and as to the forfeiture  
10          provision? The procedure that I'll be using is that  
11          I will put you under oath, I'll ask you questions.  
12          You must -- my questions are designed so that I know  
13          that you're aware of all the rights that you would be  
14          giving up as far as pleading guilty, and that you do  
15          that knowingly and voluntarily, and that if you gave  
16          me an untruthful answer to any of my questions, the  
17          government could prosecute you for perjury.

18                    If you don't understand a question just  
19          stop me, and I'll try to explain it. If you want to  
20          talk with Mr. Gaziano at any point in time, just ask  
21          me, and I'll allow you to do so. Do you understand?

22                    DEFENDANT CRUNDWELL: Yes.

23                    THE COURT: Raise your right hand.

24                    (Defendant duly sworn.)

25                    THE COURT: All right. Give me your full

1 name.

2 DEFENDANT CRUNDWELL: Rita A. Crundwell.

3 THE COURT: And how old are you?

4 DEFENDANT CRUNDWELL: 59.

5 THE COURT: And do you still currently reside  
6 in Lee County?

7 DEFENDANT CRUNDWELL: No, sir.

8 THE COURT: You reside in Illinois?

9 DEFENDANT CRUNDWELL: No, sir.

10 THE COURT: You've been given permission by  
11 the probation office to establish some other  
12 residence; is that correct?

13 DEFENDANT CRUNDWELL: Yes, Your Honor.

14 THE COURT: Prior to that, I take it you were  
15 a resident of Illinois.

16 DEFENDANT CRUNDWELL: Yes.

17 THE COURT: How far did you go in school?

18 DEFENDANT CRUNDWELL: High school.

19 THE COURT: And was that Dixon High School?

20 DEFENDANT CRUNDWELL: Yes, sir.

21 THE COURT: And, at the present time, are you  
22 taking any medications?

23 DEFENDANT CRUNDWELL: Yes, sir.

24 THE COURT: What are you taking those for  
25 might I ask?



1           DEFENDANT CRUNDWELL: Blood pressure, and I  
2 have a bad back.

3           THE COURT: All right. Pain medication.

4           DEFENDANT CRUNDWELL: Yes.

5           THE COURT: Is that, the taking of those  
6 medications, and you've taken them today --

7           DEFENDANT CRUNDWELL: Yes, sir.

8           THE COURT: -- is that in any way causing you  
9 to be, let's say, cloudy or unclear about what I'm  
10 talking to you about today?

11          DEFENDANT CRUNDWELL: No, sir.

12          THE COURT: You're fully alert as far as you  
13 are concerned; is that correct?

14          DEFENDANT CRUNDWELL: Yes, sir.

15          THE COURT: Have you ever been in a hospital  
16 or under a doctor's care for any mental condition?

17          DEFENDANT CRUNDWELL: No, Your Honor.

18          THE COURT: All right. I'll find she's  
19 competent to proceed today.

20                 Have you had enough time to talk with  
21 Mr. Gaziano and Ms. Carpenter about this case?

22          DEFENDANT CRUNDWELL: Yes, Your Honor.

23          THE COURT: And have you told them everything  
24 you know about the charges against you?

25          DEFENDANT CRUNDWELL: Yes, sir.

1           THE COURT: And you've discussed with them  
2 whether you wish to go to trial on this case or plead  
3 guilty.

4           DEFENDANT CRUNDWELL: Yes, sir.

5           THE COURT: And you're satisfied with their  
6 advise and efforts as your attorney.

7           DEFENDANT CRUNDWELL: Yes, sir.

8           THE COURT: And has any other attorney other  
9 than Ms. Carpenter and Mr. Gaziano given you legal  
10 advice in this case that you're relying on?

11          DEFENDANT CRUNDWELL: No, Your Honor.

12          THE COURT: Now, when I'm going to advise you  
13 of your rights, I'm advising you of your rights as to  
14 the criminal charge against you, but those rights  
15 also, in most part, will apply to the allegation of  
16 forfeiture. Do you understand that?

17          DEFENDANT CRUNDWELL: Yes, sir.

18          THE COURT: In other words, I'll explain to  
19 you what trial rights you have, and those apply as  
20 well to the forfeiture in this case. Do you  
21 understand?

22          DEFENDANT CRUNDWELL: Yes, sir.

23          THE COURT: I'm going to go over the  
24 indictment with you. The indictment charges you with  
25 wire fraud, and I have to explain to you the material

1 elements of that charge and what the government must  
2 prove beyond a reasonable doubt. The indictment  
3 charges that at one time, you were employed as the  
4 comptroller for the City of Dixon, you handled  
5 finances for the City of Dixon, and that the City of  
6 Dixon maintained a money market account, and that,  
7 and that account, the funds were deposited in that  
8 account representing certain monies that were  
9 deposited for the trust of the City of Dixon, which  
10 would include various taxes distributions made by the  
11 State of Illinois and other taxes, and that the City  
12 of Dixon also maintained an account called a Capital  
13 Development Fund, and that was at a particular bank  
14 as was the other money market account.

15 The indictment further charges that  
16 beginning at least as early as December 18, 1990, and  
17 continuing to on or about April 17, 2012, in Dixon,  
18 in the Northern District of Illinois, Western  
19 Division, you knowingly, and it's important the  
20 government has to allege the dates that I've just  
21 given you, and that they have to allege and prove  
22 that you knowingly devised and intended to devise a  
23 scheme to defraud and obtain money from the City of  
24 Dixon by means of making material false and  
25 fraudulent representations. And the scheme that is

1     alleged in detail in the indictment is, I'm going to  
2     summarize that, but it alleges that the scheme was  
3     one that you devised to obtain more than \$53 million  
4     from the City of Dixon, and that you had opened an  
5     account in the name of the City of Dixon called the  
6     RSCDA account and maintained that account apparently  
7     without the knowledge of the City of Dixon officials.  
8     And that you, being comptroller, were one who was in  
9     charge of the other two bank accounts that I  
10    mentioned, money market account and the Capital  
11    Development Fund, and that as a part of the scheme,  
12    when that, when the RSCDA account was opened, funds  
13    were, belonging to the City of Dixon, were  
14    transferred into that account, and that they were  
15    used, those funds were used to pay for personal and  
16    private business expenses, and that there were  
17    transfers made and that they were made from  
18    time-to-time over that period of approximately  
19    12 years [sic], and that some of the transfers were  
20    made by use of a wire, the wires, and that various  
21    property was purchased by you from city funds that  
22    were put into the RSCDA account. And that you took,  
23    as part of scheme, you took efforts to conceal the  
24    fraudulent scheme from various other public  
25    officials.

1           ` And that on or about November 2, 2011, for  
2 the purposes of being part of executing the scheme  
3 that I've just described, you transmitted by means of  
4 a wire communication which went into interstate  
5 commerce certain signals which represented a fund  
6 transfer in about \$175,000 from the Federal Reserve  
7 Bank in St. Paul, Minnesota, to the Federal Reserve  
8 Bank in Cincinnati, Ohio, for a credit to the City of  
9 Dixon Capital Development Fund at the Fifth Third  
10 Bank in Dixon, Illinois.

11           Those are the material allegations that  
12 the government has to prove; that is, that this was  
13 done knowingly, that it was a scheme that was --  
14 where you made fraudulent misrepresentations, and  
15 that some of the transactions occurred by use of a  
16 wire communication. Do you understand those  
17 allegation?

18           DEFENDANT CRUNDWELL: Yes, Your Honor.

19           THE COURT: Do you have any questions about  
20 that?

21           DEFENDANT CRUNDWELL: No, sir.

22           THE COURT: There is also a forfeiture  
23 allegation that is part of the indictment, and that  
24 forfeiture allegation list appears to me like  
25 probably twenty plus items that the government seeks

1 to forfeit. They're saying that these items were  
2 derived from the fraudulent transactions that I've  
3 just described as far as the criminal charge, and  
4 that these items that they seek to forfeit are both  
5 real estate and personal property. You understand  
6 that as well.

7 DEFENDANT CRUNDWELL: Yes, Your Honor.

8 THE COURT: And you understand that is  
9 separate, it's a part of the indictment, but it's  
10 actually a separate proceeding of forfeiture that if  
11 you were convicted of the wire fraud, you also would  
12 then have a separate right to contest the forfeiture.  
13 Do you understand that?

14 DEFENDANT CRUNDWELL: Yes, sir.

15 THE COURT: Is there anything at all that you  
16 want me to explain further as it relates to the  
17 criminal charge or the forfeiture?

18 DEFENDANT CRUNDWELL: No, sir.

19 THE COURT: And you've talked at length with  
20 your attorneys about this; have you not?

21 DEFENDANT CRUNDWELL: Yes.

22 THE COURT: All right. There is a plea  
23 agreement that has been given to me --

24 MR. PEDERSEN: Your Honor, I'm sorry to  
25 interrupt. You indicated as far as the forfeiture

1 allegation that there are numerous items that she's  
2 agreeing to forfeiture. There's also -- she's also  
3 agreed as part of the plea agreement to entry of a  
4 forfeiture judgment --

5 THE COURT: All right.

6 MR. PEDERSEN: -- in the amount of  
7 \$53,740,394 as part of the plea agreement.

8 THE COURT: That's just part of the plea  
9 agreement.

10 MR. PEDERSEN: Well, it was alleged as a part  
11 of the indictment, too, that we were seeking a  
12 forfeiture judgment.

13 THE COURT: All right. Do you understand  
14 that, that you agreed to a judgment in the amount of  
15 approximately \$53 million?

16 DEFENDANT CRUNDWELL: Yes, Your Honor.

17 THE COURT: All right. The plea agreement  
18 that I have in front of me is 26 pages, 37  
19 paragraphs. It is dated today, signed by the U.S.  
20 Attorney, by the Assistant U.S. Attorney here, and  
21 it's signed by your attorneys. And did you sign that  
22 today?

23 DEFENDANT CRUNDWELL: Yes, Your Honor.

24 THE COURT: Prior to today, I take it, you  
25 had seen a draft of this agreement?

1           DEFENDANT CRUNDWELL: Yes, Your Honor.

2           THE COURT: And have gone over it with your  
3 lawyers.

4           DEFENDANT CRUNDWELL: Yes.

5           THE COURT: And you both read it and had it  
6 explained to you by your lawyers?

7           DEFENDANT CRUNDWELL: Yes, Your Honor.

8           THE COURT: And did you understand it?

9           DEFENDANT CRUNDWELL: Yes.

10          THE COURT: Did anybody force you to sign  
11 this plea agreement?

12          DEFENDANT CRUNDWELL: No, Your Honor.

13          THE COURT: This agreement, among other  
14 things, has certain agreements that you have made  
15 with the government as far as cooperation with  
16 documents and other materials that you agreed to  
17 disclose to them. Is there anything in that  
18 agreement that you think a government agent made to  
19 you a promise that is not included in the plea  
20 agreement?

21          DEFENDANT CRUNDWELL: No, Your Honor.

22          THE COURT: Now, if you plead guilty today,  
23 you understand that eventually a sentencing hearing  
24 will be set, that this is called a plea agreement  
25 because there are certain agreements between yourself



1 and the government, but as far as the sentence in  
2 this case and as far as the guidelines, which I'll  
3 explain to you in a few minutes, I'm the one that  
4 will ultimately sentencing you, that there's no  
5 agreement as to what the sentence is. And as to the  
6 guidelines, even though your lawyer and the  
7 government may agree on some guidelines, I have to  
8 independently determine whether they're applicable.  
9 Do you understand that?

10 DEFENDANT CRUNDWELL: Yes, Your Honor.

11 THE COURT: And in this case where you would  
12 plead guilty, you cannot withdraw the plea of guilty  
13 just because the government may recommend, your  
14 counsel may recommend certain guidelines being  
15 applicable, and they may agree, but I may not agree,  
16 and as to the sentence, they may or may not agree  
17 what the sentence ought to be in this case, but I'm  
18 the one that's going to determine that. I may not  
19 following those recommendations, and they may not  
20 agree. All I'm asking you is, you understand that I  
21 will make those decisions, and you cannot withdraw  
22 the plea of guilty just because I don't follow your  
23 counsels' recommendations or the government's  
24 recommendation. Do you understand that?

25 DEFENDANT CRUNDWELL: Yes, Your Honor.

1           THE COURT: There is an obligation that this  
2 Court has to determine, and that is, upon a plea of  
3 guilty whether there is a factual basis to support  
4 the plea of guilty that would support a conviction  
5 beyond a reasonable doubt, and I have to be submitted  
6 facts that would convince me that the government, as  
7 far as the factual basis that they have set forth in  
8 the plea agreement, would meet those requirements. I  
9 have reviewed the factual basis which is set forth in  
10 the plea agreement in Paragraph 6 beginning on Page 2  
11 and continuing on to Page 5, and I have determined  
12 from reading that that it does provide a factual  
13 basis for the plea of guilty, but I want you to  
14 answer my questions.

15           First, you've read that factual basis as  
16 set forth in Paragraph 6 of the plea agreement.

17           DEFENDANT CRUNDWELL: Yes, Your Honor.

18           THE COURT: And do you have any dispute with  
19 those facts?

20           DEFENDANT CRUNDWELL: No, sir.

21           THE COURT: You committed the crime as stated  
22 in those -- in Paragraph 6; is that correct?

23           DEFENDANT CRUNDWELL: Yes, Your Honor.

24           THE COURT: Now, in Paragraph 7, which starts  
25 on Page 5 and goes through into Page 8, there are

1 facts which you had stipulated to which we call  
2 relevant conduct, and that is, those are facts that  
3 you haven't been charged with but they're conduct  
4 that I can consider at the time of sentencing.

5 You're aware of what's in Paragraph 7?

6 DEFENDANT CRUNDWELL: Yes, sir.

7 THE COURT: And do you have any dispute with  
8 that?

9 DEFENDANT CRUNDWELL: No, sir.

10 MR. PEDERSEN: Your Honor, actually, she is  
11 stipulating that she committed that as an additional  
12 offense even though she was not charged with it --

13 THE COURT: All right.

14 MR. PEDERSEN: -- so, I guess it might be  
15 considered relevant conduct, but it is actually a  
16 stipulated offense.

17 THE COURT: All right. It is -- relevant  
18 conduct uses conduct that is not charged, but it's  
19 conduct that the Court may consider during the course  
20 of a sentencing procedure, if it's relevant and it's  
21 credible. Now, in this case, Paragraph 7 constitutes  
22 both relevant conduct, and you're stipulating to  
23 conduct that is a criminal offense. Do you  
24 understand that?

25 DEFENDANT CRUNDWELL: Yes, Your Honor.

1           THE COURT: And that's what you intend. Is  
2 that right, counsel?

3           MR. GAZIANO: Yes, sir.

4           THE COURT: All right. I'm going to just  
5 briefly explain to you what happens assuming you  
6 progress through this proceeding and, ultimately,  
7 enter a plea of guilty and admission of facts which  
8 would support a forfeiture. The case then would be  
9 set for sentencing hearing. And at a sentencing  
10 hearing, I first determine what the guidelines would  
11 be in terms of criminal offense level and in terms of  
12 any prior history that you have.

13                     In the Federal System, we have a point  
14 system, and that calculates, we're really looking at  
15 two separate factors. One, is the offense that you  
16 committed, and the guidelines will consider all the  
17 facts surrounding that offense, and there'll be  
18 points that are assessed for the commission of the  
19 offense and points which would be potentially  
20 applicable as it relates to all the other  
21 circumstances of the offense, such as the amount of  
22 money that was fraudulently taken. There's more  
23 points in a \$53,000,000 fraud than somebody who might  
24 have defrauded \$10,000, and that's how these points  
25 are ultimately added up. Do you understand that?

1           DEFENDANT CRUNDWELL: Yes, sir.

2           THE COURT: And you get points, good points  
3 for accepting responsibility in a timely fashion,  
4 which the government has said you're entitled to  
5 today. The other thing the Court will look at as far  
6 as the sentencing guidelines will be any criminal  
7 history that you may have for which points are  
8 attributed to under the sentencing guidelines.

9           Once I found those, the total points on  
10 each of those factors, then I go to a guideline  
11 manual, and that guideline manual will present a  
12 guideline range based upon the criminal offense,  
13 conduct, and based upon any prior history. That  
14 advisory range that I reach is exactly that. It's  
15 advisory. I can sentence you within the guidelines,  
16 below the guidelines, or above the guidelines, so  
17 long as the sentence is not over the statutory  
18 maximum. The Court will listen if there are  
19 objections by either the government or by you to the  
20 probation officer's calculation of those guidelines,  
21 I will listen to those, and I will determine those.  
22 I have no idea at this point what those guidelines  
23 calculate to be other than what you've, the sides  
24 have suggested that there are some points that they  
25 agree upon, and there may be some disagreement. But,

1 ultimately, I will make that determination and find  
2 what are the guidelines. Then, after that, I'll  
3 determine what's the appropriate sentence in this  
4 case using the statutory factors set forth in  
5 Section 3553(a). So, that's what will happen. Do  
6 you basically understand that?

7 DEFENDANT CRUNDWELL: Yes, Your Honor.

8 THE COURT: All right. I'm going to now  
9 going to advise you of your trial rights. First of  
10 all, you have the federal defender representing you,  
11 and they are here to assist you, and they are here as  
12 your lawyers, not just to have you plead guilty, but  
13 if you wanted to go to trial, do you understand that  
14 they would represent you at trial?

15 DEFENDANT CRUNDWELL: Yes, sir.

16 THE COURT: You also have entered a plea of  
17 not guilty before the magistrate judge in this case.  
18 You have a right to persist or continue in that plea  
19 of not guilty and go to trial on that as well as the  
20 allegation of forfeiture. Do you understand that?

21 DEFENDANT CRUNDWELL: Yes, sir.

22 THE COURT: There are certain rights that you  
23 would have if you selected a trial. First of all,  
24 you would be present at the trial. You would be able  
25 to see and hear all the government witnesses and

1 evidence that they present in the case. Your lawyer  
2 would have the opportunity to cross examine those  
3 witnesses, and you would have a right to bring in any  
4 witnesses in your own behalf. You can use the  
5 subpoena power of this court to do so.

6 You also have a right to testify in the  
7 case, if you so desire, but nobody can force you.  
8 You have a Fifth Amendment Right not to testify, and  
9 even this Court cannot compel you to testify in the  
10 case.

11 In addition to those rights, the  
12 government has the burden to prove you guilty beyond  
13 a reasonable doubt. You have no burden in the case.  
14 The Court would also advise you that you are presumed  
15 to be innocent of the charges against you, and if  
16 there were a jury trial, I would so inform the jury  
17 that you are presumed innocent. Those are the trial  
18 rights that you have. And as it relates to the  
19 burden in this case, government has the sole burden  
20 to prove you guilty beyond a reasonable doubt. You  
21 don't have to offer any evidence or testify. You can  
22 rely on the presumption of innocence. Do you  
23 understand all of your trial rights?

24 DEFENDANT CRUNDWELL: Yes, Your Honor.

25 THE COURT: There are two types of trial.

1 One is a bench trial, and that's a trial in front of  
2 me only. That's where I listen to all the evidence,  
3 and I determine after listening to all the evidence  
4 whether the government has proved its case beyond a  
5 reasonable doubt. If you choose that method of  
6 trial, then you would have to give up your right to  
7 trial by jury, your lawyer would have to agree to  
8 that, the government would have to agree, and so  
9 would I. Do you understand what a bench trial is?

10 DEFENDANT CRUNDWELL: Yes, sir.

11 THE COURT: The other type of trial is a jury  
12 trial, and that's where we bring in potential jurors  
13 from this district and division. I question them to  
14 make sure that they would be fair and impartial to  
15 you and the government. If I felt that any juror  
16 would not be fair, I would excuse that potential  
17 juror for cause. You and your lawyer have a right to  
18 excuse up to ten jurors for any reason except based  
19 on that juror's race or that juror's gender, and in  
20 that way, you're able to participate in the jury  
21 selection process. In addition to that, you're  
22 participating by your lawyer and the government  
23 submitting questions that I would ask the jurors.

24 Once we have twelve jurors that I  
25 believe are fair and impartial as to both sides, then



1     they're sworn in, and we conduct a trial, and the  
2     jurors are the sole people who will determine your  
3     guilt or innocence, I preside, and I rule on matters  
4     of law, and if you're found guilty, I'm the one that  
5     will sentence you, but your guilt or innocence would  
6     be decided by a jury. And at the end of the case,  
7     the jurors go back in secret, all twelve of them, and  
8     the only way you can found guilty is if all twelve  
9     vote that you're guilty and sign the guilty verdict  
10    and return that into open court.

11                 If all twelve vote that you're not  
12    guilty and return that verdict into court, then you  
13    cannot be tried again for this offense.

14                 If the jurors are split, some for  
15    guilty, some for not guilty, and after a reasonable  
16    amount of time has gone by and they still have not  
17    been able to unanimously agree to a verdict, I could  
18    declare a mistrial, and the government could elect to  
19    try you over again. Do you understand what a jury  
20    trial is?

21                 DEFENDANT CRUNDWELL: Yes, Your Honor.

22                 THE COURT: Do you further understand if you  
23    plead guilty, you give up your rights to a trial.  
24    There is no trial, but there is a sentencing hearing.  
25    Do you understand that?

1           DEFENDANT CRUNDWELL: Yes.

2           THE COURT: Now, if you plead guilty, there  
3 are certain other rights that you give up after I  
4 sentence you on appeal. There is a process that  
5 would follow in any criminal case where after I  
6 sentence a person, if they haven't given up all their  
7 appeal rights, they have a right to appeal to a  
8 higher court who would review what I have done. But  
9 when you plead guilty, there are some issues that you  
10 could not raise on appeal. You cannot raise any  
11 issue as it relates to any trial error that might  
12 have occurred because there is no trial. In addition  
13 to that, any motion that could have been made or was  
14 made prior to trial is waived so that there's no  
15 right to appeal any such issue. You can appeal the  
16 sentence, my calculation of the guidelines, and any  
17 other error that I might have made today or in any of  
18 the proceedings that have occurred, but you can't  
19 raise those items that I've just told you about. Do  
20 you understand that?

21           DEFENDANT CRUNDWELL: Yes, Your Honor.

22           THE COURT: All right. You said that you  
23 understand all of your rights as it relates to  
24 criminal trial. Is it your desire to give up those  
25 rights?

1           DEFENDANT CRUNDWELL: Yes, sir.

2           MR. PEDERSEN: Your Honor, if I could just  
3 interrupt. I don't think the defendant was advised  
4 of all the maximum penalties that she faces.

5           THE COURT: That's right. I was going to --  
6 I usually do that earlier, but I'm glad you did that,  
7 reminded me.

8                       This is a Class C felony, and I must  
9 advise you, of course, of the potential penalties,  
10 and it carries a maximum penalty of imprisonment of  
11 20 years. And I'm telling you what the maximum is,  
12 doesn't mean you will get the maximum, but I must  
13 advise you, according to rules, what the maximum  
14 penalties are. So, the maximum penalty of  
15 imprisonment is 20 years. As I've told you, it is  
16 one that is probationable. In addition to that, the  
17 offense carries a maximum fine of \$250,000 or twice  
18 the gross gain or gross loss resulting from the  
19 offense, whichever is greater.

20                      In addition to those penalties, the  
21 Court would advise you that after any term of  
22 imprisonment that I would sentence you to, you would  
23 also be serving a period of time after imprisonment  
24 which we call supervised release, and that is not  
25 more than three years. So that would be, you would

1 be serving that after any period of imprisonment.  
2 And supervised release is like being on probation  
3 except it follows sentence, and if you violated any  
4 of the terms or conditions of your supervised  
5 release, you could have it revoked, and I could  
6 resentence you to another term of imprisonment.

7 In addition to those penalties, the  
8 Court would order restitution to any victims in this  
9 offense, and I must assess you a statutory special  
10 assessment of \$100. Anyone who is convicted of a  
11 felony must pay that \$100 special assessment. So,  
12 those are the penalties. Are you -- do you have any  
13 question about that?

14 DEFENDANT CRUNDWELL: No. No, sir.

15 THE COURT: Now, as to your plea in this  
16 case, is any -- has anybody forced you in any way to  
17 plead guilty today if that's what you choose to do.

18 DEFENDANT CRUNDWELL: No, Your Honor.

19 THE COURT: And as to the giving up your --  
20 of the forfeiture allegations, you understand that  
21 you would have those same rights to a trial that you  
22 have in the forfeiture and that you would be entitled  
23 to all those rights and that you would be giving  
24 those up and agreeing to a forfeiture in this case,  
25 assuming you plead guilty. Is that what you

1 understand?

2 DEFENDANT CRUNDWELL: Yes, sir.

3 THE COURT: And that's what you wish to do;  
4 is that correct?

5 DEFENDANT CRUNDWELL: Yes.

6 THE COURT: All right. As it relates to the  
7 charge of wire fraud, which I have explained to you,  
8 at this time do you plead guilty or not guilty?

9 DEFENDANT CRUNDWELL: Guilty.

10 THE COURT: And as to the forfeiture  
11 allegation, which I have explained to you, at this  
12 time do you admit or deny those allegations?

13 DEFENDANT CRUNDWELL: I admit.

14 THE COURT: All right. Is there anything  
15 else that either counsel would have to add at this  
16 time that I should ask her, or are you prepared for  
17 me to make my findings?

18 MR. PEDERSEN: No, Your Honor. Not that I'm  
19 aware of.

20 MR. GAZIANO: Make your findings, Your Honor.

21 THE COURT: All right. Ms. Crundwell, since  
22 you acknowledge that you are in fact guilty as  
23 charged in the indictment and having the assistance  
24 of able counsel, I will accept the plea of guilty. I  
25 will find that you -- I will also accept the plea

1 agreement, and I will find that you have been advised  
2 of your rights, you understand them, the  
3 consequences, and the possible punishment, and  
4 persist in pleading guilty. I will further find  
5 there's a factual basis for the plea of guilty, and  
6 the plea of guilty was made voluntarily and without  
7 any threats or promises. I'll make the same findings  
8 as it relates to the forfeiture allegations. I'm now  
9 going to enter judgment of guilty on her plea and the  
10 judgment of forfeiture.

11           The next thing that will happen is that  
12 you will be interviewed by a probation officer  
13 probably within the next two weeks, and she will ask  
14 you questions about the offense, about your  
15 background, and about any criminal history that you  
16 may have. If you were to materially misled or give  
17 false answers, material answers to a probation  
18 officer in this process, you could obstruct justice.  
19 I advise all persons who plead guilty of this. Mr.  
20 Gaziano will be present during the course of that  
21 interview with the probation office, so if you're  
22 unclear about any question, just stop and ask for his  
23 advice.

24           The defendant has been on, I take it, a  
25 recognizance bond since the magistrate judge ordered

1       that some time ago. Is that right, Mr. Gaziano?

2               MR. GAZIANO: That's correct, Your Honor.

3               THE COURT: And she would be, remain on that  
4       bond pending a sentencing hearing; is that correct?

5               MR. PEDERSEN: Well, Your Honor, once she's  
6       entered a plea of guilty, the presumption is  
7       detention unless she can show by clear and convincing  
8       evidence that she's not a flight risk. Based on the  
9       amount that was taken, the defendant's age, the  
10      length of the potential sentence that she's facing,  
11      we believe that she does present a risk of flight,  
12      and that in order for her to be released, she needs  
13      to rebut that presumption by clear and convincing  
14      evidence.

15              THE COURT: Mr. Gaziano.

16              MR. GAZIANO: Judge, thank you.

17                      The government is correct. 18-1343 does  
18      indicate that the presumption does switch. The  
19      burden is not an impossible burden. I would call the  
20      Court's attention to the follow factors:

21                      Lee County or Northern Illinois is Ms.  
22      Crundwell's home area. It's where she's born and  
23      raised. Her relatives continue to live here. She  
24      has no place to flee. She has no resources with which  
25      to flee. Had she wanted to flee, she would have done

1     so sometime shortly after April.

2             During the period of time between April  
3     until today's date, I would assert to the Court that  
4     Ms. Crundwell has, one, regularly maintained court  
5     appointments; two, regularly maintained appointments  
6     with us; and, three, has regularly and at a moment's  
7     notice, met with government officials to assist and  
8     cooperating in and help arrange the sale of numerous  
9     assets, all with the hope of recouping some loss for  
10    the City of Dixon. She's worked hard with the  
11    government, and I believe that the government would  
12    even stipulate to the fact, that there have been  
13    numerous meetings regarding this. She did not have  
14    to do that.

15            The Pretrial Services report which was  
16    originally shown to the Court in April showed that  
17    she's had no history of foreign travel and has no  
18    passports. She has had -- I believe Ms. Fegre from  
19    the Pretrial Services office is here. She would  
20    indicate to the Court that there have been no  
21    violations of any kind during the time of pretrial  
22    release. I think Ms. Crundwell is not a risk to  
23    flee. She's been a most cooperative client. She's  
24    been exceptional and all times and has worked to  
25    encounter this matter on a timely basis.



1 THE COURT: Thank you.

2 The Pretrial Services officer here,  
3 would you step forward, please? Identify yourself  
4 for the record.

5 MS. FEGRE: Yes, Your Honor. Traci Fegre  
6 with U.S. Pretrial Services.

7 THE COURT: And as I understand it, you have  
8 not been her direct supervisor, that she had been  
9 supervised during the period of time that she's been  
10 on release to this point in time by somebody, some  
11 other probation -- Pretrial Services officer.

12 MS. FEGRE: Yes, Your Honor. I have been in  
13 regular contact with that officer helping to  
14 monitoring Ms. Crundwell, and they have reported that  
15 she's been in compliance. There's been no issues or  
16 violations reported.

17 THE COURT: Is there any reason that she or  
18 you would change their recommendation?

19 DEFENDANT CRUNDWELL: No, Your Honor.

20 THE COURT: And you believe that she meets  
21 the requirements of the statute for continued  
22 release.

23 MR. FEGRE: Yes, Your Honor. We would not  
24 recommend any changes to bond at this time.

25 THE COURT: All right. Thank you.

1 MS. FEGRE: You're welcome.

2 THE COURT: The Court reviewed the initial  
3 report which was, went back --

4 MR. GAZIANO: April.

5 THE COURT: -- did you say April of, was it  
6 of this year?

7 MR. GAZIANO: Yes.

8 THE COURT: I've reviewed that and listened  
9 to what the government has said. I have plenty of  
10 these cases that are financial fraud cases, and in  
11 most, if not all the cases, unless some evidence can  
12 be shown that rebuts what Mr. Gaziano has said here,  
13 I think based upon what the probation -- Pretrial  
14 Services officer has said, the defendant has met the  
15 burden to show by clear and convincing evidence that,  
16 one, she's not a potential danger to the public by  
17 continued release, and, two, that there's no evidence  
18 she is a flight risk, therefore, the government --  
19 denying any motion by the government for her  
20 incarceration at this time.

21 The next remaining item will be to set a  
22 sentencing date. Do we have a -- usually you've  
23 talked with the probation office. When can they, it  
24 usually takes 90 days, when can they be finished and  
25 ready?

1 THE CLERK: February 14th.

2 THE COURT: As both counsel know, I'm gone  
3 quite a bit of the time during the winter being the  
4 senior judge taking a reduced caseload. I will be  
5 back for a period of time around the 14th. The  
6 sentencing would have to be either within those two  
7 or three days. I'm going to look and see what dates  
8 those would actually be. I think I'm here on the 13,  
9 14, 15, and 18th, but I think the 18th is a holiday.

10 THE CLERK: That's correct.

11 THE COURT: So, I'm going to ask you because  
12 there may be things that you wish to prepare for  
13 that's going to take longer than that, longer than  
14 being ready on the 14th.

15 MR. PEDERSEN: The government would be ready.  
16 I would just advise the Court, let you know, at this  
17 point we anticipate calling at least one witness in  
18 regards to the dispute over the guideline  
19 calculations on the money laundering. Also, we  
20 anticipate calling three or four witnesses in  
21 aggravation as far as the Court's consideration of  
22 the 3553(a) factors.

23 THE COURT: Are you talking a half day then?

24 MR. PEDERSEN: Yes.

25 THE COURT: At most?

1 MR. PEDERSEN: Yes.

2 THE COURT: All right.

3 Mr. Gaziano, can you be prepared on one  
4 of those dates that I gave?

5 MR. GAZIANO: I just had a question. When  
6 would the presentence investigation be delivered to  
7 us?

8 THE COURT: That would be -- you'll have the  
9 timetable before -- the normal timetable.

10 MR. GAZIANO: I was just confused when she  
11 said February 14th.

12 THE COURT: That would be when I could set  
13 the sentencing, and the report would be prepared  
14 usually a month before that.

15 MR. GAZIANO: Judge, our office is available.

16 THE COURT: All right. Let me, I have a  
17 calendar in front of me, Jen, and I know I've already  
18 set some sentencing matters for that week. What day  
19 looks best rather than Wednesday, the day, the first  
20 day back. How about the Thursday or Friday?

21 THE CLERK: You currently have nothing  
22 scheduled on Thursday, the 14th. Friday, you have  
23 one sentencing at 9:30.

24 THE COURT: Let's do it on Thursday.

25 Do you want to do it at 9:00 o'clock or

1 would you prefer 1:30?

2 MR. GAZIANO: Well, Judge, I would prefer  
3 9:00 o'clock because if we're wrong in our estimate.

4 THE COURT: Okay. All right. We will set  
5 this matter for sentencing on the 14th; is that what  
6 you said, Jen?

7 THE CLERK: Yes.

8 THE COURT: At 9:00 o'clock. Obviously, I  
9 will expect that the probation office finishes the  
10 Presentence Investigation Report. They usually do it  
11 at least a month before that time, not longer. And  
12 they'll be deadlines for objections and for response  
13 to any objections. Make sure those are timely. I  
14 don't want to have to continue this. It's my usual  
15 practice is not to continue a sentencing hearing  
16 unless during both your evaluations there's a problem  
17 that you both jointly think there ought to be a  
18 continuance. Then I'll consider that.

19 All right. Is there anything else at  
20 this time?

21 MR. PEDERSEN: No, Your Honor.

22 MR. GAZIANO: No, Your Honor.

23 THE COURT: I'm going to advise the defendant  
24 that I've allowed you to remain out on the same bond  
25 that you were on under the same conditions that the

1 magistrate judge set. You're to report, and you're  
2 under those same conditions. Make sure you don't do  
3 anything that would jeopardize that or being in  
4 violation of the magistrate judge's order allowing  
5 you to be released.

6 So, with that, I have nothing more in  
7 this case. We'll see you on the 14th.

8 MR. GAZIANO: Thank you, Your Honor.

9 MR. PEDERSEN: Thank you.

10 THE COURT: That's all.

11 I've got another case that begins in  
12 five minutes. I'm going to take a recess, and then  
13 we will proceed with that.

14 (Which were all the proceedings  
15 had in the above-entitled cause  
16 on the day and date aforesaid.)  
17

18 I hereby certify that the foregoing is a correct  
19 transcript from the record of proceedings in the  
20 above-entitled matter.

21

22

23

24

25

---

Susan G. Bloom, CSR  
No. 084-001546